

NO. 25414

IN THE SUPREME COURT OF THE STATE OF HAWAI'I

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MARILYN J. BROTT,  
Plaintiff-Appellant,

vs.

DAVID T. BROTT,  
Defendant-Appellee.

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APPEAL FROM THE FAMILY COURT OF THE SECOND CIRCUIT  
(FC-D NO. 99-0398)

ORDER VACATING JUDGMENT FOR  
ATTORNEY'S FEES AND DISMISSING APPEAL

(By: Moon, C.J., Levinson, Nakayama, and Acoba, JJ.  
and Intermediate Court of Appeals Judge Watanabe,  
assigned by reason of vacancy)

Upon review of the record, it appears that the appeal of the October 20, 2000 divorce decree in No. 23921 transferred jurisdiction over FCD 99-0398 from the family court to the appellate court. The motion for attorney's fees filed on May 3, 2002 was heard by the family court on July 1, 2002, but the family court, the Honorable Eric G. Romanchak, presiding, lacked jurisdiction to hear the motion because appellate jurisdiction over FCD 99-0398 did not terminate until July 9, 2002 when the judgment on appeal was filed in No. 23921. See HRAP 36(a); State v. Ortiz, 91 Hawai'i 181, 197, 981 P.2d 1127, 1143 (1999) ("Appellate jurisdiction in Hawai'i does not terminate until the appellate court files its judgment on appeal." ). Therefore,

IT IS HEREBY ORDERED that the September 17, 2002 judgment for attorney's fees is vacated. This appeal is dismissed.

DATED: Honolulu, Hawai'i, July 7, 2003.